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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,051	02/02/2005	Robert Allan Phillips	14450.0011USWO	7563
23552 7590 04/08/2008 MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903				
EXAMINER				
LARYEA, LAWRENCE N				
ART UNIT		PAPER NUMBER		
3768				
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04/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,051

Applicant(s)

PHILLIPS, ROBERT ALLAN

Examiner

Lawrence N. Laryea

Art Unit

3768

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on **March 24, 2008** has been entered.
2. Claims 1-9 and 10 are now pending. The Examiner acknowledges the the addition of claims 9 and 10.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 2 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by

Fazioli et al (US Patent 6,527,722).

5. Re Claims 1,2 and 7 : **Fazioli et al** teach a portable apparatus for conveying blood flow parameter to a user: the apparatus comprising: a transducer device **(202)** for providing for a continuous wave (cw) Doppler monitoring of blood flows within a patient; a processing unit **(300)** interconnected to said transducer unit and adapted to extract a

blood flow signal from the operation of said transducer and process said blood flow signal so as to produce a video blood flow signal (**See Col. 5, lines 1-24**), and an audio blood flow signal; a display unit (**262**) interconnect to said processing unit for visualising the video blood flow signal; and at least one audio emission device interconnected to said processing unit for emission of and audible form of said audio blood flow signal to the ears of said user (**See Col. 5, lines 65-67; Col. 6, lines 1-4, Col. 8, lines 41-45, Col. 1, lines 6-25; Col. 1, lines 31-36**). **Fazioli et al** teach that the portal device could a laptop.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 3,4,8,9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fazioli et al et al** as applied to claim 1 above in view of **Teigman et al** (**US Patent 6,506,157**) and further in view of **Gould** (**US Patent 5,546,943**)

8. **Fazioli et al** teach a portable apparatus for conveying blood flow parameter to a user including determining Doppler data based on the depth of the blood flow (**See Col. 2, lines 1-3**) and a speaker see rejection supra, **Fazioli et al** does not teach that the portable apparatus for conveying blood flow parameter to a user performs audio spatialisation and it includes two audio emission devices.

9. **Teigman et al** teach a Doppler blood flow system including a pair of audio emission devices (46) (See Fig.1 of **Teigman et al**).

It would have been obvious to one having ordinary skill in the art at the time invention was made to modify a portable apparatus for conveying blood flow parameter of **Fazioli et al** to replace the speaker with a pair of audio emission portable devices (speakers) similar to that of **Teigman et al** for privacy or to prevent surrounding disturbance noise from interfering of detected blood flow signals (See Col. 5, lines 45-49) as taught by **Teigman et al**.

10. **Fazioli et al** and **Teigman et al** teach the claimed invention see rejection supra, however **Fazioli et al** and **Teigman et al** do not teach that the apparatus for conveying blood flow parameter including performing audio spatialisation.

11. **Gould** teaches a system of acquiring signals from a patient wherein the received signals are audio spatialised to a user (See Col. 7, line 32; Col. 8, lines 24-32).

It would have been obvious to one having ordinary skill in the art at the time invention was made to modify a portable apparatus for conveying blood flow parameter of **Fazioli et al** to replace the speaker with a pair of audio emission portable devices (speakers) similar to that of **Teigman et al** for privacy or to prevent surrounding disturbance noise from interfering of detected blood flow signals (See Col. 5, lines 45-49 of **Teigman et al**) as taught by **Teigman et al** and also perform audio spatialisation of acquired signals to give the user the sensation that a sound is coming from a particular point (depth) in space relative to the user as taught by **Gould**.

Fazioli et al and **Teigman et al** teach the claimed invention see rejection supra,

12. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Fazioli et al et al** as applied to claim 1 above in view of **Raines et al et al (US Patent 6,149,587)**.

13. **Fazioli et al** teach a portable apparatus for conveying blood flow parameter to a user see rejection supra, **Fazioli et al** does not teach that the portable apparatus for conveying blood flow parameter to a user includes a microphone for use in recording audio commentary by the user for storage in said storage means.

14. **Raines et al** teach a Doppler blood flow system including a microphone for use in recording audio commentary by the user for storage in said storage means (**See Abstract of Raines et al**).

It would have been obvious to one having ordinary skill in the art at the time invention was made to modify a portable apparatus for conveying blood flow parameter of **Fazioli et al** including a microphone for use in recording audio commentary by the user for storage in said storage means of **Raines et al** in order to allow the user to roam around freely (**See Col. 5, lines 7-19**) as taught by **Raines et al**.

Response to Arguments

15. Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAWRENCE N. LARYEA whose telephone number is (571)272-9060. The examiner can normally be reached on 9:30 a.m.-5:30 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

LNL

/Eric F Winakur/
Primary Examiner, Art Unit 3768